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11 Attorneys for Defendant
THE NORTHWESTERN MUTUAL LIFE
12 INSURANCE COMPANY

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16
17 SANFORD J. WISHNEV, individually and
on behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 THE NORTHWESTERN MUTUAL LIFE
INSURANCE COMPANY, a Wisconsin
corporation, and DOES 1-10, inclusive,

21 Defendants.

22 Case No. 3:15-CV-3797-EMC

23 **STIPULATION TO CONTINUE THE
CASE MANAGEMENT CONFERENCE BY
TWENTY EIGHT (28) DAYS;
DECLARATION OF MARSHALL L.
BAKER; [PROPOSED] ORDER**

1 Plaintiff Sanford Wishnev (“Plaintiff”) and Defendant The Northwestern Mutual Life
 2 Insurance Company (“Northwestern Mutual”) (collectively, the “Parties”), by and through their
 3 attorneys of record, hereby agree and stipulate to continue the Case Management Conference
 4 (“CMC”) currently scheduled for June 2, 2016 as follows:

5 WHEREAS, on March 28, 2016 this Court granted Northwestern Mutual’s Motion for
 6 Certification of Interlocutory Appeal and For Stay In Part Pending Appeal. *See* Dkt. No. 50;

7 WHEREAS, on April 7, 2016, Northwestern Mutual timely filed a petition for permission
 8 to appeal pursuant to 28 U.S.C. § 1292(b) in the Ninth Circuit Court of Appeals (the “Petition”).

9 *See Nw. Mut. Life Ins. Co. v. Sanford Wishnev*, No. 16-80045 (Apr. 7, 2016 9th Cir.));

10 WHEREAS, on April 18, 2016, Plaintiff filed its Opposition to the Petition. *See id.* Dkt.
 11 No. 10;

12 WHEREAS, on April 22, 2016, Northwestern Mutual sought leave to file a Reply in
 13 support of the Petition. *See id.* Dkt. No. 11;

14 WHEREAS, the briefing on the Petition is now closed, and the Parties are awaiting the
 15 Ninth Circuit’s ruling;

16 WHEREAS, in light of the foregoing, the Parties agree that a brief twenty-eight (28) day
 17 continuance of the CMC is appropriate given the pending ruling by the Ninth Circuit;

18 WHEREAS, this brief continuance will not impact any other deadlines already set by the
 19 Court.

20 WHEREFORE, IT IS HEREBY STIPULATED AND AGREED:

21 The Case Management Conference currently scheduled for 10:30 a.m., June 2, 2016, is
 22 continued to June 30, 2016 at 10:30 a.m.

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1 Dated: May 27, 2016

DRINKER BIDDLE & REATH LLP

3 By: /s/ Marshall L. Baker

4 Michael J. Stortz
Marshall L. Baker

5 Attorneys for Defendant
6 THE NORTHWESTERN MUTUAL LIFE
INSURANCE COMPANY

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8 Dated: May 27, 2016

BRAMSON, PLUTZIK, MAHLER &
BIRKHAEUSER, LLP

10 By: /s/ Robert M. Bramson

11 Robert M. Bramson

12 Attorneys for Plaintiff
13 SANFORD J. WISHNEV

14 **Attestation Pursuant to Civil Local Rule 5-1(i)**

15 Pursuant to Civil Local Rule 5-1(i), I, Marshall L. Baker, hereby attest that I have
16 obtained concurrence in the filing of this document from the other signatory to this document.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct. Executed this 27th day of May, 2016 in San Francisco, California.

19 /s/ Marshall L. Baker

20 Marshall L. Baker

DECLARATION OF MARSHALL L. BAKER

I, Marshall L. Baker, declare as follows:

1. I am a member of the Bar of the State of California, admitted to practice before this Court, and an associate in the firm of Drinker Biddle & Reath LLP, attorneys of record for Defendant The Northwestern Mutual Life Insurance Company (“Northwestern Mutual”) in the above-entitled action. Pursuant to Civil L.R. 6-2, I make this Declaration in support of Defendant’s and Plaintiff Sanford J. Wishnev’s (“Plaintiff”) (collectively, the “Parties”) for a continuance of the Case Management Conference (“CMC”) currently scheduled for June 2, 2016. If called, I would testify to the matters set forth herein.

2. In light of the pending ruling on Northwestern Mutual’s Petition for Interlocutory Appeal pursuant to 28 U.S.C §1292(b) (the “Petition”), the Parties met and conferred regarding a brief continuance of the CMC.

3. The Parties agreed that a ruling on the Petition was forthcoming and that a twenty-eight day continuance of the CMC was therefore appropriate.

4. The Parties request this continuance because it may provide sufficient time for the Ninth Circuit to issue its ruling and will not impact any deadlines already set by the Court or otherwise have any effect on the schedule of the case.

5. To date, the other time modifications in this case are as follows: on 8/31/2015, the Court granted the Parties' Stipulation As to Filing of the Amended Complaint and scheduled a response deadline for that pleading; on 11/05/2015, the Court reset the hearing on Defendant's Motion to Dismiss Plaintiff's First Amended Complaint and reset the Case Management Conference to 11/20/2015; on 11/20/2015, the Court reset the Case Management Conference to 1/21/2016; on 01/12/2016, the Court reset the Case Management Conference to 3/3/2016; on 02/23/2016, the Court Granted the Defendant's Motion to Continue the Case Management Conference to 3/24/2016.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of May, 2016 at San Francisco, CA.

/s/ Marshall L. Baker
Marshall L. Baker

1 **[PROPOSED] ORDER**
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: _____

5/31/16

Hon. Edward M. Chen
UNITED STATES DISTRICT JUDGE

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